



FILED

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Law Forward Inc.
222 West Washington Avenue, Suite 250
Madison, WI 53703-2725
CLERK OF WISCONSIN
SUPREME COURT

December 26, 2023

VIA E-FILING

Samuel A. Christensen, Clerk of the Supreme Court
110 East Main Street, Suite 215
Madison, WI 53703

Re: *Rebecca Clarke v. Wisconsin Elections Commission*, No. 2023AP001399-OA

Dear Mr. Christensen,

I write as one of the attorneys for the Clarke Petitioners in this case and in response to the Court's December 22, 2023 Order regarding Post-Decision Matters which, in part, appointed Dr. Jonathan Cervas and Dr. Bernard Grofman to serve as consultants for the Court.

Campaign Legal Center, which is among the firms and organizations representing the Clarke Petitioners, previously represented Dr. Cervas, as one of numerous *amici*, in filing a brief in support of neither party in *Republican Party of New Mexico v. Oliver*, Case No. No. D-506-CV-2022-00041 (5th Jud. Dist. Ct., N.M.), a challenge to an alleged Democratic gerrymander in New Mexico.¹ The purpose of the brief was to provide independent, nonpartisan expert analysis to aid the court in adjudicating the case. This Court's own procedures, including communications with Dr. Cervas, might already have brought this to the Court's attention. Campaign Legal Center's representation of Dr. Cervas concluded before the Court issued its opinion in this matter. We therefore do not believe that the previous representation disqualifies Dr. Cervas from serving as a court-appointed consultant. Nevertheless, in the interest of candor and to ensure that the Court and all parties are fully informed, we wanted to inform the Court and the parties of this previous representation.

As the Court may also be aware, Dr. Grofman previously served as a testifying expert witness on behalf of the Wisconsin Legislature in *Baldus v. Members of the Wisconsin Government Accountability Board* (E.D. Wis. 2012) as well as Scott R. Jensen, in his capacity as Speaker of Wisconsin Assembly, and Mary E. Panzer, in her capacity as Minority Leader of the Wisconsin Senate, in *Baumgart v. Wendelberger* (E.D. Wis. 2002). One of the attorneys for the Clarke Petitioners', Mr. Poland, examined Dr. Grofman in that capacity. As with Dr. Cervas, the Clarke Petitioners do not view Dr. Grofman's prior retention by the Legislature as affecting their ability to serve as consultants in this case.

¹ The brief is available at: <https://campaignlegal.org/sites/default/files/2023-08/NM%20Republican%20Party%20v.%20Oliver%20-%20CLC%20Amicus%20Brief%202023-08-14.pdf>.



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Sincerely,

A handwritten signature in black ink, appearing to read "Daniel S. Lenz", is written over a faint, light gray circular watermark.

Daniel S. Lenz
Staff Counsel
Law Forward, Inc.

cc: Counsel of Record (by electronic filing)